

## **REMARKS**

The Office Action mailed April 21, 2006 considered and rejected claims 1-4, 7, 10-17 and 20-27. Claims 15-17 and 20-23 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. Claims 1, 2, 4, and 7-27 were rejected under 35 U.S.C. 102(b) as being anticipated by the TETware Release 3.3 software product released September 18, 1998 by The Open Group, as evidenced by: "TETware User Guide, Revision 1.2", "Release Notes for TETware Release 3.3" and "TETware Programmers Guide, Revision 1.2". Claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over TETware and the associated cited documentation as applied to claim 1 above, and further in view of Hartmann et al. (U.S. Patent No. 6,505,342).<sup>1</sup> By this action, Claim 15 has been amended, such that claims 1-4, 7, 10-17 and 20-27 remain pending for examination.

Reconsideration of the application is respectfully requested in view of the following remarks. For the Examiner's convenience and reference, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references.

### **I. Claim Rejections under 35 U.S.C. § 101**

Section 3 of the Office Action rejects claims 15-17 and 20-23 under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. Applicants have amended independent claim 15 to direct the claim to statutory subject matter. Support for the amendment is found at least at page 8, lines 19-24 through page 9, lines 1-3 of the specification. Accordingly, the 35 U.S.C. 101 rejection should be removed from independent

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<sup>1</sup> Although the prior art status and some of the assertions made with regard to the cited art is not being challenged at this time, inasmuch as it is not necessary following the amendments and remarks made herein, which distinguish the claims from the art of record, Applicants reserve the right to challenge the prior art status and assertions made with regard to the cited art, as well as any official notice, which was taken in the last office action, at any appropriate time in the future, should the need arise, such as, for example in a subsequent amendment or during prosecution of a related application. Accordingly, Applicants' decision not to respond to any particular assertions or rejections in this paper should not be construed as Applicant acquiescing to said assertions or rejections.

claim 15. Since claims 16, 17, and 20-23 are dependent on independent claim 15, the 35 U.S.C. 101 should be removed from these claims as well.

## **II. Claim Rejections under 35 U.S.C. § 102(b) and §103(a)**

Applicants hereby incorporate by reference the arguments made in the previous response to prior Office Actions traversing the rejections of record under 35 U.S.C. § 102(b) and §103(a). The rejections of record under 35 U.S.C. § 102(b) and §103(a) will be appealed once the 35 U.S.C. § 101 issue is addressed by entry of the amendments made herein. The undersigned respectfully asks the Examiner to contact the undersigned attorney once the amendments made herein are entered of record.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 27<sup>th</sup> day of July, 2006.

Respectfully submitted,

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